

TOWN OF FREDERICK, COLORADO
ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN OF FREDERICK COLORADO,
AMENDING ARTICLE 4 OF THE TOWN OF FREDERICK LAND USE CODE,
2004, TO CLARIFY THE FORM OF IMPROVEMENT GUARANTEE
REQUIRED TO SECURE CONSTRUCTION OF PUBLIC IMPROVEMENTS**

WHEREAS, the Board of Trustees of the Town of Frederick finds it necessary to amend the Town of Frederick Land Use Code, 2004, to improve and expedite the procedure to regulate land use and development within the Town and to clarify the required form of improvement guarantee necessary to secure performance of public improvements.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Subsection 4.9. 1.b.(3)(m)(i) of the Frederick Land Use Code, 2004, is hereby repealed in its entirety and reenacted to read as follows:

**“Sec. 4.9 Specific Requirements and Review Standards for Minor
Applications**

1. Final plat

...

i. An MOAPI shall include a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, which shall be in an amount not less than 100% of the total estimated cost of the improvements, and any other provisions or conditions deemed necessary by the Board of Trustees to ensure that all improvements will be completed in a timely, quality and cost-effective manner. An MOAPI shall run with and be a burden upon the land described in the agreement.”

Section 2. Subsection 4.9. 1.b.(3)(o) of the Frederick Land Use Code, 2004, is hereby repealed in its entirety and reenacted to read as follows:

**“Sec. 4.9 Specific Requirements and Review Standards for Minor
Applications**

1. Final plat

...

(o) Improvements guarantee. Cash, certified check or a letter of credit issued by a bank in Colorado or other acceptable collateral in an amount not less than 100% of the total estimated cost of the improvements or as otherwise stipulated to in the MOAPI or other agreements or contracts, posted in favor of the

Town and as otherwise deemed sufficient to assure construction of public improvements for either part or all of a particular plat, at the discretion of the Board of Trustees. Partial releases of a guarantee may be considered when development is phased and an initial phase has received final acceptance, subject to retentions during the warranty period.”

Section 3. Subsection 4.9. 1.d.(4) of the Frederick Land Use Code, 2004, is hereby repealed in its entirety and reenacted to read as follows:

“Sec. 4.9 Specific Requirements and Review Standards for Minor Applications

1. Final plat

...
(4) Warranty.

(a) All workmanship and materials for all required improvements shall be warranted by the subdivider for a period of two (2) years from the date of the Town's acceptance of the required improvement; provided that any defects which are the result of public abuse, misuse or acts of God are not the responsibility of said subdivider. For perimeter fences that abut collector and arterial streets, the warranty period shall be two (2) years. The total amount of the guarantee shall be in an amount not less than one hundred percent (100%) of the total estimated cost, including labor and materials, of all public improvements to be constructed. The Town shall not release the improvement guarantee until the Town has granted final acceptance of the improvements. Partial releases of a guarantee may be considered when development is phased and a phase has received final acceptance; however, at all times during the improvement warranty period, the Town shall retain an amount not less than ten percent (10%) of the guarantee under this section. In the event that any other provision of this Code or specifications adopted pursuant thereto requires a warranty of workmanship or materials for a different period of time, that provision requiring the longer period shall govern. The inspection or acceptance of any required improvement by the Town shall not relieve the subdivider of his or her warranty of workmanship and materials.”

Section 4. Effective date. This ordinance shall be published and become effective as provided by law.

Section 5. Severability. If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 6. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution, or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED
PUBLISHED THIS _____ DAY OF _____, 2009.**

ATTEST:

TOWN OF FREDERICK

By _____
Nanette Fornof, Town Clerk

Eric Doering, Mayor